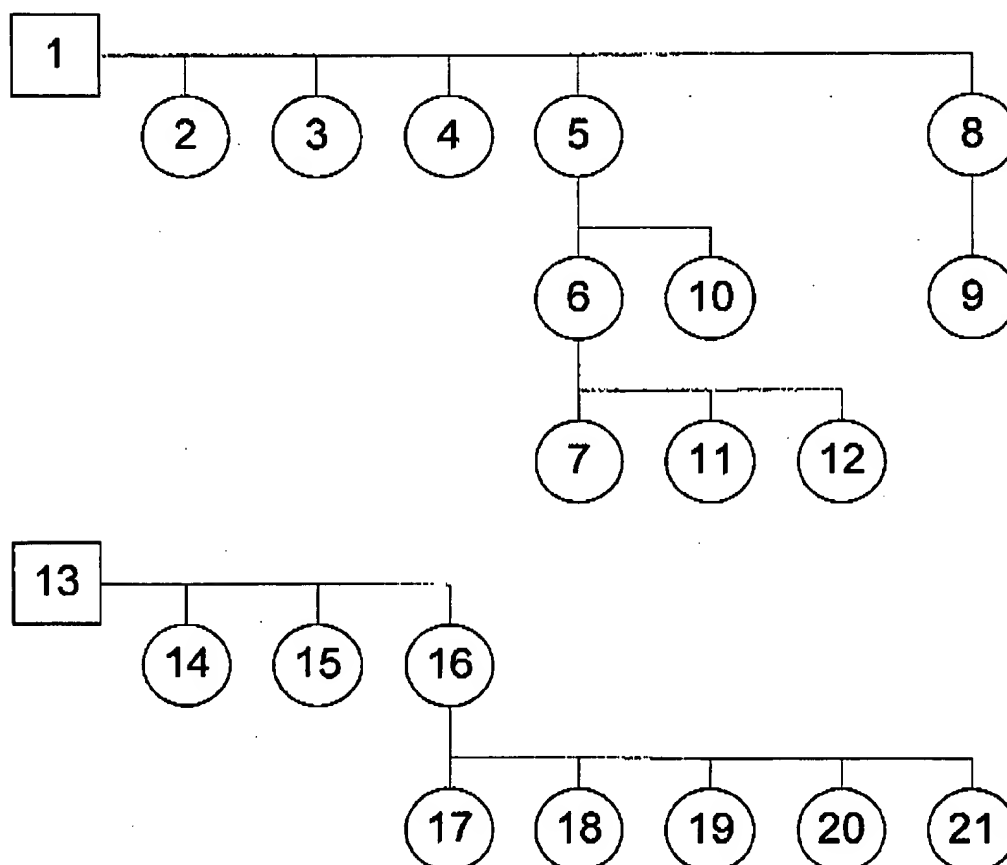In re Application of MOORE et al.
Application No. 09/755,770

REMARKS

Reconsideration of the application is respectfully requested. An Office action mailed May 5, 2004 is pending in the application. Applicants have carefully considered the Office action and the references of record. In the Office action, claims 1, 5-11 and 13-15 were rejected under 35 U.S.C. § 102, and claims 2-4, 12 and 16-21 were rejected under 35 U.S.C. § 103. In this response to the Office action, claims 1 and 13 have been amended. Therefore, claims 1-21 are pending in the application.

The following diagram depicts the relationship between the independent and dependent claims.

6

In re Application of MOORE et al.
Application No. 09/755,770

Rejections Under 35 U.S.C. § 102 of the Independent Claims

Each of the independent claims 1 and 13 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,336,135 to Niblett et al. (hereinafter *Niblett*). The Manual of Patent Examining Procedure (M.P.E.P.) states that a claim is anticipated by a reference only if each and every element as set forth in the claim can be found in the reference and, furthermore, that the identical invention must be shown in as complete detail as is contained in the claim.

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. ...
> The identical invention must be shown in as complete detail as is contained in the ... claim.

(M.P.E.P. § 2131, subsection titled "TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM," emphasis added). Because each of the independent claims 1 and 13 includes at least one feature that cannot be found in *Niblett*, its rejection under 35 U.S.C. § 102(b) should be withdrawn. Examples of claim features that cannot be found in *Niblett* are given below for each of the independent claims 1 and 13.

Independent claim 1 is amended herein to clarify the nature, role and relationship of the user interface, the application-client and the user request. For example, the user request forwarded by the application to the application-client of the application includes at least one command of a user input.

> The user input including at least one command ... the method comprising the steps of:
>   forwarding, by the application, a user request to the user interface of the application to the application-client of the application, **the user request comprising the at least one command.**

(Independent claim 1, as amended, emphasis added). Furthermore, independent claim 1 as amended herein clarifies that, the application-client of the application issues a confirmation message to complete a request-acknowledgement loop between the user interface of the application and the application-client prior to executing the request, thereby freeing the user interface of the application to process subsequent user inputs prior to completion of the request.

7

In re Application of MOORE et al.
Application No. 09/755,770

> Issuing, by the application-client of the application, a confirmation message to complete a request-acknowledgment loop between the user interface of the application and the application-client of the application prior to executing the request thereby freeing the user interface of the application to process subsequent user input prior to completion of the request.

(Independent claim 1, as amended). *Niblett* does not teach the nature, role and relationship of the user interface, the application-client and the user request as claimed. Specifically, *Niblett* does not teach an application-client issuing a confirmation message to complete a request-acknowledgement loop between the user interface of the application and the application-client prior to executing the request, <u>thereby freeing the user interface of the application to process subsequent user inputs prior to completion of the request</u>. Also, in *Niblett*, an application-client of the application does not issue a confirmation message to complete a request-acknowledgement loop <u>between the user interface of the application and the application-client of the application</u>. For at least these reasons, *Niblett* does not teach each and every element of independent claim 1 in as complete detail as is contained in the claim.

Independent claim 13 is amended herein to clarify the nature, role and relationship of the application and its modules, particularly the media-sense module. For example, independent claim 13 requires that each application includes one or more software modules for presenting a user interface, one or more client modules for asynchronously communicating with a server, a media-sense module for detecting whether the connection is operational, a software module for saving a state of the one or more client modules, and another software module for retrieving the saved state and continuing a communications session when the connection is restored as detected by the media-sense module.

> The at least one application comprising:
>> at least one software module for presenting a user interface;
>> at least one client module for asynchronously communicating with a server;
>> a media-sense module for detecting whether the connection is operational ...
>> a first software module for saving a state of the at least one client module;
> and
>> a second software module for retrieving the saved state and continuing a communications session when the connection is restored as detected by the media-sense module.

8

In re Application of MOORE et al.
Application No. 09/755,770

(Independent claim 13, as amended). In particular, independent claim 13 requires a media-sense module configured to detect cessation of traffic on a link underlying the connection and determine an error rate for the connection.

> The media-sense module configured to, at least:
>> detect cessation of traffic on a link underlying the connection; and
>> determine an error rate for the connection.

(Independent claim 13, as amended). In contrast *Niblett* does not teach the nature, role and relationship of an application and its modules as claimed because *Niblett* does not have a media-sense module configured to detect cessation of traffic on a link underlying the connection and determine an error rate for the connection. Therefore, *Niblett* does not teach each and every element of independent claim 13 in as complete detail as is contained in the claim.

The Remaining Dependent Claims

Each of claims 1 and 13 is in independent form, whereas all of the remaining claims depend directly or indirectly on one of these two independent claims. The dependent claims are allowable for at least the same reasons that the two independent claims 1 and 13 are allowable in that the dependent claims incorporate the features of the independent claims. Nevertheless, the dependent claims further define subject matter not shown or rendered obvious by the prior art of record. Because the independent claims are allowable over the applied prior art, applicants do not believe remarks addressing this further subject matter are necessary herein.

Niblett and 35 U.S.C. § 103

Although, in the Office action mailed May 5, 2004, independent claims 1 and 13 are not rejected under 35 U.S.C. § 103(a), some remarks are appropriate with respect to the possibility of using *Niblett* to support a rejection under 35 U.S.C. § 103(a). In particular, the M.P.E.P. further states that, to support the rejection of a claim under 35 U.S.C. § 103(a), each feature of each rejected claim must be taught or suggested by the applied prior art, and that each of the words describing the feature must be taken into account.

9

In re Application of MOORE et al.
Application No. 09/755,770

> To establish *prima facie* obviousness of a claimed invention, all the claim limitations
> must be taught or suggested by the prior art. ... **All words in a claim must be**
> considered in judging the patentability of that claim against the prior art.

(M.P.E.P. § 2143.03, emphasis added). Each of the independent claims 1 and 13 include at

least one feature not taught or suggested by *Niblett* alone or in combination with the prior

art of record. For example, *Niblett* does not teach or suggest that the application-client

issues a confirmation message to complete a request-acknowledgement loop between the

user interface of the application and the application-client of the application, nor does

Niblett teach or suggest a media-sense module configured to detect cessation of traffic on a

link underlying the connection and determine an error rate for the connection. *Niblett* thus

fails as a candidate for support of a rejection of either independent claim 1 or 13 under 35

U.S.C. § 103(a).

CONCLUSION

The application is considered in good and proper form for allowance, and the

examiner is respectfully requested to pass this application to issue. If, in the opinion of

the examiner, a telephone conference would expedite the prosecution of the subject

application, the examiner is invited to call the undersigned attorney.

Respectfully submitted,

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10